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DECISION



20740
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-203770

DATE: February 8, 1982

MATTER OF: General Services Administration - Contributions for
CETA Employee

DIGEST: General Services Administration does not have authority to pay retirement contributions to state retirement system for Comprehensive Employment and Training Act (CETA) employee assigned to it by the Metropolitan Community Colleges District, Kansas City, Missouri, a CETA subgrantee.

This responds to a request from the General Services Administration (GSA) about whether it has authority to pay an invoice of \$93.73 for retirement contributions made by the Metropolitan Community Colleges District for one of the District's Comprehensive Employment and Training Act (CETA) employees assigned to GSA. For the reasons given below, we find that GSA does not have authority to pay the invoice.

The Metropolitan Community Colleges District (the District), of Kansas City, Missouri, as a program agent for CETA, provided employment for CETA participants with the District and, upon request, by assignment to outside agencies such as GSA. See Comprehensive Employment and Training Act Amendments of 1978, 29 U.S.C. §§ 3801 *et seq.* (Supp. III, 1979). CETA regulations specifically provide that assigned employees, such as the one assigned by the District to GSA, are considered employees of the employing agency, 20 C.F.R. §§ 675.4 and 676.25-3(c)(5) (1981), and not the agency to which they are assigned.

Beginning in 1980, the District agreed to participate in the Missouri Non-Teacher Retirement System. Accordingly, it made contributions to that System for staff employees at the rate of 3 percent of salary. In compliance with a Missouri Attorney General opinion that required employers participating in the Retirement System to make retirement contributions for full-time CETA employees, the District decided it would pay the retirement costs for its CETA employees, including the one who was assigned to GSA, but that it would request GSA to reimburse it for the retirement contributions for the employee assigned to GSA.

In a legal opinion, the GSA Office of Regional Counsel concluded that reimbursement of the retirement contributions by GSA was questionable since GSA did not have authority to pay retirement costs. Accordingly, GSA submitted the matter to our Office for resolution. Subsequently, in response to our request for its comments, the Department of Labor informed us that since CETA did not preclude payment by

GSA, the issue of whether and under what circumstances GSA might use its funds was within the purview of this Office. The Department also explained that program regulation 20 C.F.R. § 676.28-1 (1981), discourages retirement contributions under CETA where, as appears to be the case with the Missouri Non-Teacher Retirement System, the payments do not vest rights in the employees when made. Finally, the Department's response said that even if the system did qualify for CETA contributions to it, the funds would have to come out of the District's subgrant or contract.

Since the Comprehensive Employment and Training Act does not authorize GSA to reimburse CETA subgrantees for their retirement contributions for their CETA employees assigned to GSA, GSA can make those reimbursements only if it is otherwise authorized to do so. The question before us is then limited to determining the authority of GSA to reimburse the District for payments the District has made into the Missouri Non-Teacher Retirement System on behalf of the CETA worker assigned to GSA.

Section 628 of title 31 of the United States Code (1976), requires that appropriations be applied solely to the objects for which they are made. As a corollary to this law we have held that where an appropriation is made for a particular object, by implication it confers authority to incur expenses that are necessary or incident to the proper execution of the object. See e.g., 6 Comp. Gen. 619, 621 (1927).

A payment into a retirement fund is normally part of the compensation paid an employee for services. In this instance, the District is the employer of the CETA worker pursuant to CETA regulations and thus must make the payment into the Missouri Non-Teacher Retirement System. Our review of the Act appropriating money to GSA for fiscal year 1980 ^{1/}, Pub. L. No. 96-74, 93 Stat. 366-70, September 29, 1979, and its legislative history, fails to show any appropriation, including those for "general management and agency operations-salaries and expenses" or "administrative and staff support services-salaries and expenses" as being available for the described payments as a necessary expense incident to the proper execution of any appropriation. Furthermore, it does not appear that the arrangement between the District and GSA provides for GSA reimbursing the District for its retirement contributions.

^{1/} We cite the Treasury, Postal Service and General Government Appropriation Act for fiscal 1980 because GSA activities for fiscal 1981 and 1982 were, and are, funded through continuing resolutions. Pub. L. No. 96-536, 94 Stat. 3166, December 16, 1980; Pub. L. No. 97-51, 95 Stat. 958, October 1, 1981. The cited resolutions essentially continued GSA programs under the same authorities as the 1980 Appropriation Act.

We distinguish our conclusion here from that in 46 Comp. Gen. 115 (1966) and the cases following that decision, e.g., 50 Comp. Gen. 553 (1971). In 46 Comp. Gen. 115 we considered the College Work-Study Program under title I-C of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. §§ 2751 et seq. (Supp. V, 1965-68). That program was designed for cost sharing between participating educational institutions and work site organizations, including Federal agencies. At the time of that decision, the Economic Opportunity Act provided that the institutions pay up to 90 percent ^{2/} of the student compensation from grant funds, and the work site organizations the remainder. Pub. L. No. 88-452, § 124(f), 78 Stat. 515.

The Act also limited the use of grant funds for administrative expenses to 5 percent of the amount of the grant funds applied to compensation of students at work site organizations. Id. § 124(b). The fact that the use of grant funds for administrative expenses was limited clearly suggested the need for work site organizations to share in the administrative costs as well as the compensation costs. Accordingly, in 46 Comp. Gen. 115, 117, we held that the Veterans Administration could include various administrative costs which were not reimbursed with grant funds (social security taxes, compensation insurance and related standard contributions) as part of its participation in the program.

Unlike the work study program, CETA does not authorize a cost sharing arrangement between eligible employers, i.e., the institutions receiving grant funds, and the Federal agencies where the employees work. Administrative costs such as those described in 46 Comp. Gen. 115 are covered by CETA grants. There is no statutory authority for participating Federal agencies to make those payments. Moreover, because of the short term employment under CETA, both that Act, 29 U.S.C. § 823(j), and its implementing regulations, 20 C.F.R. § 676.28-1, carefully limit the use of CETA grant funds for retirement contributions for CETA employees.

Neither GSA nor the District has presented a legal argument supporting GSA's reimbursing the District for the retirement contributions. The only expression we have from GSA is a memorandum concluding that GSA's Office of Regional Counsel has found no authority

^{2/} By amendment in 1968 that share was reduced to 80 percent. Pub. L. No. 90-575, § 134, 82 Stat. 1029, currently codified at 42 U.S.C. § 2753(b)(6). Moreover, in 50 Comp. Gen. at 554-55, we explained explicitly that if Federal agencies agreed, they could make higher payments than the 20 percent minimum.

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for the payment. Accordingly, based on the information presented, we conclude that GSA is not authorized to make the \$93.73 reimbursement.

for *Milton J. Rowland*
Comptroller General
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